

MAIL TO:

STATE OF UTAH
DIVISION OF PURCHASING
3150 STATE OFFICE BUILDING, STATE CAPITOL
P.O. BOX 141061
SALT LAKE CITY, UTAH 84114-1061
TELEPHONE (801) 538-3026
<http://www.purchasing.state.ut.us>

Request for ProposalSolicitation Number: **RM2151**Due Date: **05/07/02 at 3:00 P.M.**

Date Sent: March 22, 2002

Agency ContractGoods and services to be purchased: **THIRD PARTY FISCAL INTERMEDIARY PROCESSOR FOR PAYMENT OF WIC PROGRAM FIS****Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u>			
The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes____ No____. If no, enter where produced, etc._____			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

**STATE OF UTAH
DIVISION OF PURCHASING**

Request for Proposal

Solicitation Number: RM2151

Due Date: 05/07/02

Vendor Name:

THIRD PARTY FISCAL INTERMEDIARY PROCESSOR FOR PAYMENT OF WIC PROGRAM FIS PER ATTACHED RFP.

QUESTIONS ON SPECIFICATIONS CALL WILLIAM BOYER AT (801) 538-6061.

QUESTIONS ON PURCHASING PROCESS CALL ROSELLE MILLER AT (801) 538-3232.
RX: 270 24000000047.

REQUEST FOR PROPOSAL - INSTRUCTIONS AND GENERAL PROVISIONS

1. **PROPOSAL PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. (c) Unit price will govern, if there is an error in the extension. (d) Delivery of services as proposed is critical and must be adhered to. (e) Incomplete proposals may be rejected. (f) This proposal may not be withdrawn for a period of 60 days from the due date. (g) Where applicable, all proposals must include complete manufacturer's descriptive literature. (h) By signing the proposal the offeror certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices offered are correct.

2. **SUBMITTING THE PROPOSAL:** (a) The proposal must be signed in ink, sealed, and if mailed, mailed in a properly-addressed envelope to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061. **The "Solicitation Number" and "Due Date" must appear on the outside of the envelope.** (b) Proposals, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section 3-209. (c) **Your proposal will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of proposals to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the proposal for consideration and approval by the Division of Purchasing & General Services (DIVISION). Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION. No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose will be paid by the state unless specifically included in the proposal and accepted by DIVISION. (e) By signing the proposal the offeror certifies that all of the information provided is accurate and that he/she offers to furnish materials/services for purchase in strict accordance with the requirements of this proposal including all terms and conditions.

3. **BONDS:** The state has the right to require a bid or proposal bond, payment bond and/or a faithful performance bond from the offeror in an amount not to exceed the amount of the contract.

4. **PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for non-disclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any proposal will not be considered proprietary. All material becomes the property of the state and may be returned only at the state's option. Proposals submitted may be reviewed and evaluated by any persons at the discretion of the state.

5. **BEST AND FINAL OFFERS:** Discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements. Prior to award, these offerors may be asked to submit best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by a competing offeror.

6. **SAMPLES:** Samples, brochures, etc., when required, must be furnished free of expense to the state and if not destroyed by tests may, upon request made at the time the sample is furnished, be returned at the offeror's expense.

7. **DIVISION APPROVAL:** Contracts written with the State of Utah, as a result of this proposal, will not be legally binding without the written approval of the Director of the DIVISION.

8. **AWARD OF CONTRACT:** (a) The contract will be awarded with reasonable promptness, by written notice, to the lowest responsible offeror whose proposal is determined to be the most advantageous to the state, taking into consideration price and evaluation factors set forth in the RFP. No other factors or criteria will be used in the evaluation. The contract file shall contain the basis on which the award is made. Refer to Utah Code Annotated 65-56-

21. (b) The DIVISION can reject any and all proposals. And it can waive any informality, or technicality in any proposal received, if the DIVISION believes it would serve the best interests of the state. (c) Before, or after, the award of a contract the DIVISION has the right to inspect the offeror's premises and all business records to determine the offeror's ability to meet contract requirements. (d) The DIVISION will open proposals publicly, identifying only the names of the offerors. Proposals and modifications shall be time stamped upon receipt and held in a secure place until the due date. After the due date, a **register** of proposals shall be established. The **register** shall be open to public inspection, but the proposals will be seen only by authorized DIVISION staff and those selected by DIVISION to evaluate the proposals. The proposal(s) of the successful offeror(s) shall be open for public inspection for 90 days after the award of the contract(s). (e) Utah has a reciprocal preference law which will be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

9. **ANTI-DISCRIMINATION ACT:** The offeror agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also offeror agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

10. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

11. **DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

12. **GOVERNING LAWS AND REGULATIONS:** All State purchases are subject to the Utah Procurement Code, Title 63, Chapter 56 Utah Code Annotated 1953, as amended, and the Procurement Rules as adopted by the Utah State Procurement Policy Board (Utah Administrative Code Section R33). These are available on the Internet at www.purchasing.state.ut.us.

**Request for Proposal
for
FISCAL INTERMEDIARY SERVICES
SOLICITATION NUMBER RM2151**

I. INTRODUCTION AND CONDITIONS

A. General

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is a supplemental food and nutrition education program funded by the U. S. Department of Agriculture (U.S.D.A.) and administered by the Utah Department of Health, Community and Family Health Services Division, Utah WIC Program through local health departments and private agencies. At present, WIC is operating in all of Utah's 29 counties and on the Uintah and Ouray Indian Reservation (Ute Indian Tribe).

WIC provides specified nutritious food supplements to pregnant, postpartum, nursing women, and to infants and children up to 5 years of age who are determined by certified professional authorities (i.e., physicians, nutritionists, nurses, and other trained health personnel) to be at nutritional risk because of inadequate diet and low income. Foods high in nutritional value are selected for the participants to assist in the correction of medical or nutritional problems. The services include enrollment, nutrition education, health screening, and referral and issuance of appropriate food instruments (FI hereafter) which are redeemable at approximately 340 participating retail outlets around the State. These food instruments are redeemable for only food items listed on the FIs in the quantities specified and for the time period indicated on the FI.

Throughout the month, WIC participants use the FIs to purchase the prescribed food products at authorized retail outlets. The total price and purchase redeemed date (new USDA requirement) for the transaction is entered on the FI by the Retailer. The FI is signed by the WIC participant or an authorized proxy. The retailer stamps each FI with a state provided vendor stamp prior to deposit. The retailer deposits the FI exactly as any other check. The Federal Banking system carries out the logistics of processing until the FI is presented to the State WIC Contract Bank. Post edited validations or audits (to be described later) occur to determine if the FI is a valid check to be paid or if it needs returned through the banking system to the depositor.

Current FI volumes are approximately 130,000 per month. This is expected to increase at a small percentage as new participants are added to the program. Volumes may vary widely from month to month depending on the redemption and depositing practices of the retail vendors. Volume swings in any month up to 160,000 FIs may occur.

B. Overview

The Utah WIC Program currently contracts with a third party fiscal intermediary processor for payment of WIC Program FIs. The current contract will end on September 30, 2002 and will require the Utah WIC Program to issue this RFP (request for proposal). The current relationship provides a daily exchange between the fiscal intermediary's mainframe and the State of Utah's mainframe on issued FIs, paid FIs and returned FIs. Funding for the paid FIs is performed daily based on the total FIs processed that day. No checking account balances or compensating balances are maintained. Sorting, microfilming / imaging, and check safekeeping of the FIs is provided by the fiscal intermediary. Monthly reconciliation of the Bank Statement to the detail posted transactions (RECON) is also performed.

C. Purpose

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) in the State of Utah is administered through the Utah Department of Health, Community and Family Health Service Division. It is the intent of the Utah Department of Health WIC Program to solicit proposals for fiscal intermediary processing services to process FIs for payment, provide edits and review procedures to prevent improper payment of FIs, and provide a complete audit trail of all transactions processed as outlined in the "Proposal Requirements" and Scope of Work" sections of this request for proposal and to encourage to the maximum extent possible, open and free competition.

Three project contacts, Lynn Weston, the WIC vendor coordinator, William Boyer, the WIC financial manager, and Marie Nagata, the WIC Program Information Systems Coordinator have been designated to ensure the system's procurement and to supervise the offeror's performance of work under a contract if awarded. The primary project contact will be William Boyer.

D. Definitions

WIC	USDA Supplemental Nutrition Program for Women, Infants, and Children
RFP	Request for Proposal
FI	The document (check) issued by UDOH specifying the amount and type of food for a WIC participant during a designated time period which can subsequently be deposited by a participating WIC retailer at any bank.
UDOH	Utah Department of Health
USDA	United States Department of Agriculture

State

State of Utah

E. Instructions to Offerors

1. An original and six copies (6) of the offeror's proposal must be received by the Utah State Division of Purchasing, Room 3150, State Office Building, Salt Lake City, Utah, 84114, no later than May 7, 2002 at 3:00 p.m. The offeror's response must include the original proposal forms along with the required information of price and other specific requirements as outlined in the Proposal Requirements section herein.
2. All questions relating to this request for proposal including further explanations or other matters related to this project can be submitted in writing to

Utah Department of Health

Community and Family Health Services Division

Utah WIC Program

P.O. Box 141013

Salt Lake City, Utah 84114-1013

Attn: William Boyer, RFP Questions

All written questions must be received before 5:00 p.m., April 9, 2002 and must include the contact name (with telephone number) for the response. Questions received after that time will not be answered. Copies of all questions received through the mail will be provided to all offerors who receive the basic request for proposal. The names of the offerors submitting questions will not be indicated. All responses made by the State will be sent to all offerors within ten (10) days after the closing for receipt of questions.

3. The offerors must respond to this request for proposal by addressing all requirements herein, in order for the proposal to be evaluated and considered for award. Failure to address all specifications shall be deemed sufficient for disqualification of a proposal from further consideration for award.
4. Any exceptions to the terms, conditions, specification or other requirements for this request for proposal taken by the offeror shall be specifically defined. These alterations

shall be evaluated by the State.

5. In the event the State feels it necessary to revise any part of this request, amendments will be provided to all offerors who received the basic request for proposal.
6. Proposal modifications or addenda to the original proposals received at the office designated in this request for proposal after the specified date for proposal submission will not be accepted. Responses to this RFP may be modified or withdrawn by written notice received prior to the exact hour and date for the receipt of the proposal. The proposal may also be withdrawn in person by the offeror's authorized representative providing their identity is made known and they sign a receipt for the proposal, but in any case only if the withdrawal is made prior to the exact hour and date for receipt of the proposal. Modification to or withdrawal of a proposal received at the office designated in the RFP after the exact hour and date specified will not be considered.
7. The proposal shall be signed by a person or by persons authorized to legally bind the offeror and shall contain a statement that the price contained therein will remain firm for a period of six (6) months from the time of proposal submission.
8. Proposals received in response to this request for proposal will be for the entire scope defined therein. No partial proposals will be considered for award. The offeror must certify in the proposal that the price includes performance of the completed requirements of this request.
9. The State of Utah is not liable for any cost incurred by offerors in replying to this request for proposal.
10. At the States option, any or all portions of this RFP and any or all portions of the successful offeror's response, may be incorporated by reference as part of the final contractual agreement.
11. Each proposal must include a signed U. S. Department of Agriculture Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Transactions Form AD - 1048 (2/89). A sample is in Attachment C.

F. Estimated Time Schedule

- | | |
|---|----------------|
| 1. Request for Proposal Sent Out | March 25, 2002 |
| 2. Last Day Written Comments will be Accepted | April 9, 2002 |
| 3. Written Response to Offerors Questions | April 19, 2002 |

- | | |
|---|-----------------|
| 5. Closing Date | May 7, 2002 |
| 6. Evaluation of Proposals | May 17, 2002 |
| 7. Select Winning Proposal for Contract | June 1, 2002 |
| 8. Contract reviewed and approved | July 20, 2002 |
| 9. Programming/Procedures completed for testing | August 23, 2002 |
| 10. System ready for use | Sept 13, 2002 |

G. Proposal Evaluation

1. All potential contractors must qualify as such in accordance with all applicable State and Federal rules and regulations.
2. If the State awards a contract relative to this request for proposal, it will be based upon the completed proposals received by the State.
3. The contract resulting from this request shall be awarded in response to a completed proposal providing total compliance with the specified requirements.
4. All proposals will be evaluated by representatives from the Department of Health. Evaluation will be focused toward, but not limited to:
 - a. Adequacy and completeness of the proposal with regard to the information specified in the RFP. Offerors understanding of and approach to the project as defined in the following sections.
 - b. Compliance with the terms, conditions, and other provisions contained in the RFP.
 - c. Qualifications and ability of the offeror to successfully meet contractual requirements will be evaluated on experience and knowledge which can be brought to bear on the subject. The offeror must have experience servicing specialized government and corporate banking needs for payment authorization, signature verification, reconciliation, return item tracking, and capturing of program (government) dependent data not normally provided for general public bank processing.
 - d. Implementation Plan

- e. Cost of service. The lowest cost proposal will receive the maximum points. The remaining proposals will receive points based on their cost compared to the lowest cost proposal.
 - f. Time of Completion.
- 5. An oral presentation by an offeror to supplement a proposal may be required. These oral presentations will be scheduled, if required, by the evaluation committee subsequent to the receipt of proposals and prior to the award.
 - 6. All offerors shall be notified of the successful contractor.
 - 7. The major criteria for evaluation of the proposals are as follows:
 - a. General Quality and Adequacy of Response

The total narrative summary must provide completeness and thoroughness regarding the proposal, including responsiveness to the terms and conditions of the RFP.
 - b. Experience and expertise of offeror to provide specialized WIC services.

A narrative summary must include a response to experience and the availability of personnel to perform the scope of work. This includes the offeror's organization to support and maintain the system.
 - c. Timetable

A narrative summary must provide the acknowledgment of meeting the time schedule requirements or provide documentation of alternative time schedules.
 - d. Technical Approach

A narrative summary must provide a plan for providing the functionality as specified in the scope of work section of this RFP. The capability must meet UDOH needs with flexibility so that future increases in participant caseload or reporting needs can be assimilated into the system.
 - e. Cost

A narrative summary must provide a break down of the costs to provide the

services.

H. Evaluation Criteria

<u>Weight</u>	<u>Major Criteria</u>
150 pts	Organization, expertise, experience
400 pts	Costs
200 pts	Technical approach
150 pts	Timetable
100 pts	General quality and adequacy of response

1000 pts	Total

I. General Contract Provisions

General Contract provisions are included in attachment A.

J. Special Contract Provisions

1. The State will have ownership rights in software and modifications (including all associated documentation) designed, developed, or installed under the terms of this project. The United States Department of Agriculture (USDA)/Food and Nutrition Service (FNS) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for Federal Government purposes, 1) the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and 2) any rights of copyright to which a grantee, subgrantee or a contract or purchases ownership with grant support for such software, modifications, and documentation.
2. The contractor shall not be liable for failure to perform if such failure to perform

arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather; however, in every case, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

3. Disputes:
 - a. Any dispute concerning questions of fact arising under the contract which is not disposed of by agreement shall be decided by the Director of the Utah Health Department, who shall reduce the decision to writing and serve a copy on the Contractor. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Director's decision unless otherwise instructed.
 - b. This section does not preclude consideration of questions of law in connection with decisions provided for in paragraph 3.a above, provided that nothing in the contract shall be construed as making final the decision of any administrative official on a question of law.
 - c. The contract will not be subject to arbitration.
4. Reimbursement to payment account
 - a. An account will be established at the Contractor's Bank for payment of the FIs. This account will be a zero balance account with funding daily to cover payment of FIs presented for payment. No compensating balances will be maintained.
 - b. The contractor's bank will notify UDOH daily of the dollar amount of Food instruments processed for payment today minus the amount of items returned yesterday. Notification can be transmitted via facsimile.
 - c. A claim will be processed by UDOH thru State Finance to the State Treasurer who will generate a daily wire transfer to the bank for the amount identified in J.4.b above.
 - d. Payment for all processing fees will require a monthly invoice to be submitted to the Utah WIC Program. The invoice will be processed and a State draft printed and sent to the fiscal intermediary. The invoice must identify each fee by description and dollar amount with the total monthly cost summarized at the bottom.

e. Daily corrections, Minimum, and Estimated Wire Transfers.

1. A provision for reconciling and correcting mispostings or data entry items on the next subsequent bank transfer document or transaction, after the error is discovered.
2. A wire transfer will not be processed for less than \$1,000.00, instead the unprocessed balance will be added to or offset against the next days claim.
3. Estimated wire transfer requests must be provided on days when the fiscal intermediary cannot provide the actual data in time to UDOH, in time to process a wire transfer by 2:30 p.m., due to causes beyond their control.
4. Any complications, irregularities, or deviations from the established normal workflow patterns or procedures will be communicated to the UDOH Bureau of Finance Officers assigned, and concurrence with the alternative emergency processing maneuvers will be obtained prior to altering any procedure. This is to be done daily as appropriately required.

f. Bonding & Recoupment

1. Offeror (if awarded a contract under this RFP) will acquire and furnish a \$50,000 performance bond to the State of Utah, the effective date based on the beginning date of any contract awarded under this RFP with a renewable option each year the contract is in force.
2. Recoupment of losses suffered by UDOH resulting from error, fraud, or incompetence on the part of contractor or its employees, agent, subcontractors.

If appropriate, alternative procedures may be considered with the winning offeror during contract negotiation.

II. PROPOSAL REQUIREMENTS

The offeror shall respond to this request for proposal by submitting a cover letter, an original and six (6) copies of the proposal as outlined.

A. Cover Letter

A letter of transmittal shall accompany the offeror's proposal to delineate and identify the physical proposals that are submitted. The cover letter must be signed by the individual certified to bind the offeror. If more than one set of proposals are submitted in response to this request for proposal, information to that effect shall be set forth in the cover letter(s).

B. Business Management Proposal

This proposal will address the items listed below in order, and will be used by the evaluation team to assess the potential contractor's abilities and proposed costs for the activity.

1. Qualification of Offeror

The Offeror in the proposal shall exhibit their qualifications for successfully completing the requirements of this request by including, as a minimum, the following:

- a. The legal form of the offeror's business organization, the state in which incorporated (if a corporation), the types of business ventures in which the organization is involved, and an organizational chart. The organization of the team assigned to the project and the delegation of responsibility. If separate teams will be assigned for project development and installation and daily operation, describe each team and explain their respective roles.
- b. The name(s) of the person assigned as the contact for the service

Applicable background and experience of these personnel. Emphasize any experience in the development of WIC Fiscal Intermediary Services.
- c. The offeror's previous experience with providing WIC Fiscal Intermediary Services along with the names, address, and telephone numbers who may be contacted for reference. The State reserves the right to contact additional references known to the State or obtained through contact with the references provided.
- d. The offeror's proposed implementation plan to install and operate WIC Fiscal

Intermediary Services.

2. Stability of Offeror

- a. The offeror shall provide appropriate proof of financial resources and stability as evidence of the offeror's capability to provide timely and uninterrupted services. The offeror shall supply a statement of corporate financial resources, and a history of prior involvement in similar projects.
- b. The nature of the services of any subcontractors is very important to the State of Utah. The evaluation team must be convinced of the stability of any prime contractor who qualifies for these services as well as any subcontractor that may be utilized. The planned use of any and all subcontractors must be clearly explained in the proposal. A description of any services that will be subcontracted, including appropriate information concerning the subcontracting organization (facilities, resources, personnel, financial stability, etc.) All subcontractors held by the successful offeror shall be made available upon request for inspection and examination by appropriate State officials, and such contractor-subcontractor relationships must meet with the approval of the State WIC Agency. For purposes of this RFP, subcontracting does not include equipment or facilities which are leased and under exclusive control of the offeror.
- c. The prime contractor shall be responsible for all costs and contract performances whether or not subcontractors are used.

3. Security and Privacy Requirements

The nature of data gathered for the WIC Program requires privacy and security as a protection of the Program's Participants. The offeror shall supply some form of documentation that will sufficiently demonstrate to the State the security measures that the offeror plans to take in handling vendor and financial data

4. Cost of Proposed Services

The contract will be for three years with options for an additional two years. All monthly costs must be quoted on a per check basis and based on the specifications stated in the RFP. Any programming costs must be listed separately if this cost will be billed to the State. The cost of Services may be reviewed at the end of each anniversary date, and with proper documentation of an increase of the vendor's expenditures to provide the service, up to a maximum of a 4% increase may be approved with an amendment signed by both parties.

C. Systems development, Implementation and Data Conversions Phases.

The offeror must provide a narrative describing the proposed plan for delivering the services as specified in the "Scope of Work" section herein. Testing and installation of the banking services will be determined by the timetable for the EDP project. The timetable listed in this RFP specifies the expected time frame testing of the banking services will begin. The plan for managing the fiscal intermediary contract must include but not be limited to:

- a. A breakdown into logical sub-tasks of all work to be performed in the development, conversion, and start-up.
- b. Any constraints having an influence on the completion of any task.
- c. Time frames for the completion of each sub-task.

D. Technical Proposal

The offeror shall address in specific terms the plans for delivering each item detailed in the "Scope of Work" section of this request for proposal. In order to be considered a complete response to this RFP, each item in Section III must be complete, and give a thorough understanding of the proposal to anyone who may have a limited knowledge of Utah's WIC Fiscal Intermediary Services

E. Cost Submission Format

Use the following format to submit costs under this RFP:

Monthly FI Processing Fee: (ie, cost per Food Instrument -
includes any returned item fee) Example \$0.065 per FI \$_____ per
FI

System Development and Startup Costs \$_____

Other Costs (document each in detail) \$_____

III. SCOPE OF WORK

Approximately 130,000 FIs per month are issued to participants in the WIC Program. These are generally redeemed on a weekly basis. Printed on the FI is the participant's name, the participant's identification number, the maximum dollar value of the FI, and dates indicating the valid redemption period of the FI. The actual amount of the sale, the purchase redemption date (new USDA requirement), and the vendor number will be manually recorded by the retailer at the time of FI redemption. The participant will attest that the food items have been received and the amount of the sale is accurate by means of a signature on each FI. The Retailer will then deposit the FI in their community bank for processing as a normal bank transaction. The FIs will clear through the banking process to a State WIC Contract Bank as selected by this RFP. The requirements of the State WIC Contract Bank follow.

A. Start Date

The new contract will take effect on October 1, 2002. The offeror must be prepared to process any and all FIs beginning on that date. To ensure that the processing capability is

in place, all system development, programming, and installation needed to provide the services describe in this section must be completed and installed at least three weeks prior to October 1. Only new FIs issued after October 1, 2002 will be processed under this RFP. FIs issued prior to October will be processed by the current processor. Volumes in the first few months will be less than the average volume mentioned above. They will range from approximately 40% in the first month to full volumes in the fourth month.

B. Payment of FI

1. For payment, the FI will have to satisfy the following conditions
 - a. The FI must be on a list of issued FIs.
 - b. The retailer depositing the FI must be approved and under contract with the UDOH.
 - c. The total amount of the FI must be equal to or less than the maximum amount on the obligation file.
 - d. Valid matching signatures of the participant must be on the FI.
 - e. The FI must be redeemed and processed within the proper time period.
 - f. The Vendor must properly endorse the FI with their Vendor Stamp.
 - g. Payment override by approval of WIC State Office.
2. To facilitate the processing by the contractor, the UDOH will provide daily updates for the contractor's FI obligation file. Each transaction coming from UDOH will contain:
 - a. FI serial number
 - b. FI maximum Amount
 - c. FI Status Code (FI-record-type)
 - d. FI valid Begin Date
 - e. FI valid Expiration Date
 - f. Transaction code (FI-override-code)

This data will be merged by the contractor into a combined obligation file for editing of WIC FIs. The contractor is to furnish any required data entry before processing the FI against the outstanding FI file. Any valid FIs passing the automated bank edit will be reported to UDOH as paid transactions. Correction of previously paid item amounts will be reported to UDOH as corrections. FIs not meeting the edit criteria will be reported to UDOH as rejected. These FIs will be returned by the contractor to the retailer via the banking system return item procedure indicating the reason code for rejection by means of an ink stamp placed on the FI.

The FI valid date range will be a maximum of one month. The retailer may deposit the FI up to 90 days after the FI valid Begin Date. If deposited later than 90 days, the item must be returned as a rejection.

The daily updates from UDOH will include a file of new FIs that have been issued by the clinics on the prior day's business. This file will also contain any correction records, FIs voided, and any payment override records which represent FIs originally rejected by the contractor that have revised edit criteria allowing them to be paid. Override payment indication may also be identified by an authorize payment stamp on the physical FI. As the override FIs are resubmitted by the retail vendors, they must be subsequently paid.

Problems at the State may occur that will result in the inability to include all newly issued food instruments in daily updates from UDOH. If this occurs, the detail issue records will be provided upon resolution of the problem. During this period it may be necessary to allow authorization of a range of food instrument serial numbers for payment without a detailed issued record in case the food instrument is presented for payment. If this occurs, the range of authorized numbers must still meet the edit criteria to reject a food instrument as outline below (the range authorization will meet the issued criteria).

It is expected that the contractor will be responsible for developing the program(s) necessary to update the internal FI file using the daily file for UDOH.

3. Valid Retailer verification

UDOH will send to the contractor a complete file of valid retail vendors to be used in the daily edit process. The frequency will be subject to when vendors change, but may be more frequent if desired by the contractor. It is expected that the contractor will be responsible for developing a program(s) necessary to replace an internal vendor file using the data from UDOH. Matching to the valid vendor file is accomplished by entering the vendor number appearing on the face of the FI.

4. Rejected FIs

FIs not meeting the following criteria must be rejected and returned to the retailer

- a. Validate the item is on the issued obligation file. If it is not, pull the FI from the normal edit run and perform all edits manually. If the FI passes all edits, pay the item. A report is required to identify all FIs that were paid without an issue record. If the FI fails any of the edits, reject and return the FI as indicated below. Utah WIC is currently getting a report from the vendor of all FIs being processed for that day without an issue record or if it is a voided FI; either by Fax or e-mail. The UDOH determines if the FI should be paid and sends that information back to the bank to finish the processing of the FI.
- b. Validate that a vendor number is on the FI. If one does not appear or is unreadable, the item must be returned - RETURN REASON F.
- c. Validate the vendor number is on the authorized vendor number file. If it is not, the item must be returned - RETURN REASON I.
- d. Validate that a matching counter signature exists. If it does not match or is missing, the item must be returned - RETURN REASON M.
- e. Validate the printed "WIC" is printed on the FI and within the box. If it is not, the item must be returned - RETURN REASON F.
- f. Validate the item has a written "pay exactly" amount. If it does not, the item must be returned - RETURN REASON F.
- g. Validate the pay exactly amount is equal to or less the maximum amount. If it is not, the item must be returned - RETURN REASON A.
- h. Validate the Store redemption date is not prior to the First Day to Use. IF it is, the item must be returned - RETURN REASON E.
- i. Validate the process date is not greater than 60 days past the Last Day to Use. If it is, the item must be returned - RETURN REASON L.
- j. Validate the item has not already been paid. If it has, the item must be returned - RETURN REASON P
- k. Validate the item has not been placed into a stop payment. If it has, the item must

be returned - RETURN REASON S.

l. Validate the item does not show as a void item. If it does, the item should be paid but included in a report listing it as a paid voided item.

m. Validate the item is not a forced reject as indicated by the override code of the issue file. If it is, the item must be returned - RETURN REASON S.

All applicable reject reasons must be stamped on the front of the FI to instruct the Vendor of all errors that must be corrected before the FI can be redeposited. The stamp wording will be agreed to after a contract is awarded under this RFP.

The Utah WIC Program may override payment of an FI to "pay regardless" or to "reject regardless" by using the override code in the issue file. Pay regardless may also be indicated by a physical stamp on the face of the FI.

Return Rate of FI:

October 2001	.69%	134,012 vouchers paid	928 vouchers
		returned	
November 2001	.59%	125,959 vouchers paid	754 vouchers
			returned
December 2001	.60%	123,889 vouchers paid	747 vouchers
			returned

5. Data exchange

Data for paid items, adjusted items, and returned items must be sent to UDOH daily by a method mutually agreed to by the State and the Contractor. Currently, WIC uses a FTP file transfer protocol which is preferred. Other methods can be discussed as long as no additional equipment or software is needed at the State to support the exchange, i.e., magnetic tape or indirect telecommunications. The response to this RFP must indicate the capability to support the preferred transfer method or identify an alternative method. File exchange deadline schedules will depend on the method used for the transfer and the amount of time require to capture the files into the State processing. Current transfer times are between 12 a.m. and 12:00 p.m after the day the FIs are processed (paid) at the Bank. Please include in the response an indication if these times can be met.

6. Listings

A contractor copy listing of paid, rejected, and adjusted FIs each day. Include a monthly paid recon with archive quality microfiche (or an other mutually agreed to format) for use at UDOH Finance.

Submit a bank statement of account as of the last business day of the month and a reconciliation of the paid total on the bank statement to the detail posted FIs on the recon explaining any differences, by individual FI.

Provide PC dial-up (modem) access with appropriate software to access the account used to pay and fund the FIs.

7. Microfilm / Imaging of FI

All processed documents (both paid and rejected) must be microfilmed each day, Roll film (archive quality) or other imaging process (CD or other format) will be considered . UDOH must be provided with an internal microfilm reference number for the FI on the film. Any other imaging process the vendor wants to propose for consideration would need to include, for the UDOH, any special software to view the FI at no charge to us.

8. FIs

Paid FIs must be sorted by serial number within paid date and retained for 60 days. After 60 days, an appropriate method to destroy the physical FIs must be followed to ensure privacy and risk protection to the Utah WIC Program.

Any research required by the Utah WIC Program, i.e., photo copies, paid dates, etc. must be provided within 5 business days of the request.

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UTAH DEPARTMENT OF HEALTH

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UTAH DEPARTMENT OF HEALTH GENERAL PROVISIONS

I. CONTRACT DEFINITIONS

The following definitions apply in these general provisions:

"Assign@ or AAssignment" means the transfer of all rights and delegation of all duties in the contract to another person.

"Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

"This Contract" means this agreement between the Department and the Contractor, including both the General Provisions and the Special Provisions.

"The Contractor" means the person who delivers the services or goods described in this Contract, other than the state or the Department.

"The Department" means the Utah Department of Health.

"Director" means the Executive Director of the Department or authorized representative.

"Equipment" means capital equipment which costs at least \$1,000 and has a useful life of one year or more unless a different definition or amount is set forth in the Special Provisions or specific Department Program policy as described in writing to Contractor.

"Federal law" means the constitution, orders, case law, statutes, rules, and regulations of the federal government.

"General provisions" means those provisions of this Contract which are set forth under the heading "General Provisions."

"Governmental entity" means a federal, state, local, or federally-recognized Indian tribal government, or any subdivision thereof.

"Individual" means a living human being.

"Local health department" means a local health department as defined in ' 26A-1-102, Utah Code Annotated, 1953 as amended (UCA.).

"Non-governmental entity" means privately held non-profit or for profit organization not classified as a "Governmental entity."

"Person" means any governmental entity, business, individual, union, committee, club, other organization, or group of individuals.

"Recipient" means an individual who is eligible for services provided by the Department or by an authorized Contractor of the Department under the terms of this Contract.

"Services" means the furnishing of labor, time, or effort by a Contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

"Special provisions" means those provisions of this Contract which are in addition to the General Provisions and which more fully describe the goods or services covered by this Contract.

"State" means the State of Utah.

"State law" means the constitution, orders, case law, statutes, and rules, of the state.

"Subcontract" means any signed agreement between the Contractor and a third party to provide goods or services for which the Contractor is obligated, except purchase orders for standard commercial equipment, products, or services.

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"Subcontractor" means the person who performs the services or delivers the goods described in a subcontract.

II. AUTHORITY

1. The Department's authority to enter into this Contract is derived from Chapter 56, Title 63, UCA; Titles 26 and 26A, UCA; and from related statutes.
2. The Contractor represents that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project or services described in this Contract.

III. MISCELLANEOUS PROVISIONS

1. For reference clarity, as used in these General Provisions: "ARTICLE" refers to a major topic designated by capitalized roman numerals; "SECTION" refers to the next lower numbered heading designated by arabic numerals, and "SUBSECTIONS" refers to the next two lower headings designated by lower case letters and lower case roman numerals.
2. If the General Provisions and the special provisions of this Contract conflict, the special provisions govern.
3. These provisions distinguish between two Contractor types: Governmental and Non-governmental. Unspecified text applies to both types. Type-specific statements appear in bold print (e.g., **Non-governmental entities only**).
4. Once signed by the Director and the State Division of Finance, when applicable, and the State Division of Purchasing, when applicable, this Contract becomes effective on the date specified in this Contract. Changes made to the unsigned Contract document shall be initialed by both persons signing this Contract on page one. Changes made to this Contract after the signatures are made on page one may only be made by a separate written amendment signed by persons authorized to amend this Contract.
5. Neither party may enlarge, modify, or reduce the terms, scope of work, or dollar amount in this Contract, except by written amendment as provided in section 4.
6. This Contract and the contracts that incorporate its provisions contain the entire agreement between the Department and the Contractor. Any statements, promises, or inducements made by either party or the agent of either party which are not contained in the written Contract or other contracts are not valid or binding.
7. The Contractor shall comply with all applicable laws regarding federal and state taxes, unemployment insurance, disability insurance, and workers' compensation.
8. The Contractor is an independent Contractor, having no authorization, express or implied, to bind the Department to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the Department unless expressly set forth herein. Compensation stated herein shall be the total amount payable to the Contractor by the Department. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the Department for these contract services.
9. The Contractor shall maintain all licenses, permits, and authority required to accomplish its obligations under this Contract.
10. The Contractor shall obtain prior written Department approval before purchasing any equipment with contract funds.

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11. Notice shall be in writing, directed to the contact person on page one of this Contract, and delivered by certified mail or by hand to the other party's most currently known address. The notice shall be effective when placed in the U.S. mail or hand-delivered.

12. The Department and the Contractor shall attempt to resolve contract disputes through available administrative remedies prior to initiating any court action.

13. This Contract shall be construed and governed by the laws of the State of Utah. The Contractor submits to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. The proper venue of any legal action arising under this contract shall be in Salt Lake City, Utah.

14. Any court ruling or other binding legal declaration which declares that any provision of this Contract is illegal or void, shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.

15. The Contractor agrees to maintain the confidentiality of records that it holds as agent for the Department as required by the Government Records Access and Management Act, Title 63, Chapter 2, UCA and the confidentiality of records requirements of Title 26, UCA.

16. The Contractor agrees to abide by the State of Utah's executive order, dated June 30, 1989, which prohibits sexual harassment in the workplace.

17. The waiver by either party of any provision, term, covenant or condition of this Contract shall not be deemed to be a waiver of any other provision, covenant or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant or condition of this Contract.

18. The Contractor agrees to warrant and assume responsibility for each hardware, firmware, and/or software product (hereafter called the product) that it licenses, or sells, to the Department under this Contract. The Contractor acknowledges that the Uniform Commercial Code applies to this Contract. In general, the Contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the Department has relied on the Contractor's skill or judgement to consider when it advised the Department about the product, **especially to ensure year 2000 compatibility and fitness**, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the Department has not been warned. In general, "**year 2000 compatibility and fitness**" means: (1) the product warranted by the Contractor will not cease to perform before, during, or after the calendar year 2000, (2) the product will not produce abnormal, invalid, and/or incorrect results before, during, or after the calendar year 2000, (3) will include, but not be limited to, date data century recognition, calculations that accommodate same century and multi-century formats, date data values that reflect century, and (4) accurately process date data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations.

If problems arise, the Contractor will repair or replace (at no charge to the Department) the product whose noncompliance is discovered and made known to the Contractor in writing. If there is a Year 2000 problem, the Contractor agrees to immediately assign senior engineering staff to work continuously until the product problem is corrected, time being of the essence.

The Contractor warrants that it is Year 2000 compliant with respect to all aspects of performing this Contract. The Contractor bears the risk of loss for Year 2000 failures on its behalf, its subcontractors, or agents relevant to the performance of this Contract.

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Nothing in this warranty will be construed to limit any rights or remedies the Department may otherwise have under this Contract with respect to defects other than Year 2000 performance.

19. The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid for from State funds and used in the exercise of that entity's essential functions. If the items purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.

IV. UTAH INDOOR CLEAN AIR ACT

The Contractor, for all personnel operating within the State of Utah, shall comply with the Utah Indoor Clean Air Act, Title 26, Chapter 38, UCA, which prohibits smoking in public places.

V. RELATED PARTIES & CONFLICTS OF INTEREST

1. The Contractor may not pay related parties for goods, services, facilities, leases, salaries, wages, professional fees, or the like for contract expenses without the prior written consent of the Department. The Department may consider the payments to the related parties as disallowed expenditures and accordingly adjust the Department's payment to the Contractor for all related party payments made without the Department's consent. As used in this section, "related parties" means any person related to the Contractor by blood, marriage, partnership, common directors or officers, or 10% or greater direct or indirect ownership in a common entity.

2. The Contractor shall comply with the Public Officers' and Employees' Ethics Act, ' 67-16-10, UCA, which prohibits actions that may create or that are actual or potential conflicts of interest. It also provides that "no person shall induce or seek to induce any public officer or public employee to violate any of the provisions of this act." The Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with ' 67-16-8, UCA.

VI. OTHER CONTRACTS

1. The Department may perform additional work related to this Contract or award other contracts for such work. The Contractor shall cooperate fully with other contractors, public officers, and public employees in scheduling and coordinating contract work. The Contractor shall give other contractors reasonable opportunity to execute their work and shall not interfere with the scheduled work of other contractors, public officers, and public employees.

2. The Department shall not unreasonably interfere with the Contractor's performance of its obligations under this Contract.

VII. SUBCONTRACTS & ASSIGNMENTS

The Contractor shall not assign this Agreement without the written consent of the Department. The Department

agrees that the Contractor may partially subcontract services, provided that the Contractor retains ultimate responsibility for performance of all terms, conditions and provisions of this Agreement. When subcontracting, the Contractor agrees to use written subcontracts that conform with Federal and State laws. The Contractor shall request Department approval for any assignment at least 20 days prior to its effective date.

VIII. FURTHER WARRANTY

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The Contractor warrants that (a) all services shall be performed in conformity with the requirements of this Contract by qualified personnel in accordance with generally recognized standards; and (b) all goods or products furnished pursuant to this Contract shall be free from defects and shall conform to contract requirements. For any item that the Department determines does not conform with the warranty, the Department may arrange to have the item repaired or replaced, either by the Contractor or by a third party at the Department's option, at the Contractor's expense.

IX. INFORMATION OWNERSHIP

Except for confidential medical records held by direct care providers, the Department shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this Contract. The Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached in performance of this Contract without the express written consent of the Department.

X. SOFTWARE OWNERSHIP

1. If the Contractor develops or pays to have developed computer software exclusively with funds or proceeds from this Contract to perform its obligations under this Contract, or to perform computerized tasks that it was not previously performing to meet its obligations under this Contract, the computer software shall be exclusively owned by or licensed to the Department. In the case of software owned by the Department, the Department grants to the Contractor a nontransferable, nonexclusive license to use the software in the performance of this Contract. In the case of software licensed to the Department, the Department grants to the Contractor permission to use the software in the performance of this Contract. This license or permission, as the case may be, terminates when the Contractor has completed its work under this Contract.
2. If the Contractor develops or pays to have developed computer software which is an addition to existing software owned by or licensed exclusively with funds or proceeds from this Contract, or to modify software to perform computerized tasks in a manner different than previously performed, to meet its obligations under this Contract, the addition shall be exclusively owned by or licensed to the Department. In the case of software owned by the Department, the Department grants to the Contractor a nontransferable, nonexclusive license to use the software in the performance of this Contract. In the case of software licensed to the Department, the Department grants to the Contractor permission to use the software in the performance of this Contract. This license or permission, as the case may be, terminates when the Contractor has completed its work under this Contract.
3. If the Contractor uses computer software licensed to it which it does not modify or program to handle the specific tasks required by this Contract, then to the extent allowed by the license agreement between the Contractor and the owner of the software, the Contractor grants to the Department a continuing nonexclusive license to use the software, either by the Department or by a different Contractor, to perform work substantially identical to the work performed by the Contractor under this Contract. If the Contractor cannot grant the license as required by this section, then the Contractor shall reveal the input screens, report formats, data structures, linkages, and relations used in performing its obligations under this Contract in such a manner to allow the Department or another Contractor to continue the work performed by the Contractor under this Contract.
4. The Contractor shall deliver to the Department a copy of the software or information required by this Article within 90 days after the commencement of this Contract and thereafter immediately upon making a modification to any of the software which is the subject of this Contract.

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XI. INFORMATION PRACTICES

1. **(Governmental entities only)** The Contractor shall establish, maintain, and practice information procedures and controls that comply with Federal and State law. The Contractor assures that any information about an individual that it receives or requests from the Department pursuant to this Contract is necessary to the performance of its duties and functions and that the information will be used only for the purposes set forth in this Contract. The Department shall inform the Contractor of any non-public designation of any information it provides to the Contractor.
2. **(Non-governmental entities only)** The Contractor shall establish, maintain, and practice information procedures and controls that comply with Federal and State law. The Contractor may not release any information regarding any person from any information provided by the Department, unless the Department first consents in writing to the release.

XII. INDEMNIFICATION

1. **(Governmental entities only)** It is mutually agreed that each party assumes liability for the negligent or wrongful acts committed by its own agents, officials, or employees, regardless of the source of funding for this Contract. Neither party waives any rights or defenses otherwise available under the Governmental Immunity Act.
2. **(Non-governmental entities only)** To the extent authorized by law, the Contractor shall indemnify and hold harmless the Department and any of its agents, officers, and employees, from any claims, demands, suits, actions, proceedings, loss, injury, death, and damages of every kind and description, including any attorney's fees and litigation expenses, which may be brought, made against, or incurred by that party on account of loss or damage to any property, or for injuries to or death of any person, caused by, arising directly or indirectly out of, or contributed to in whole or in part, by reason of any alleged act, omission, professional error, fault, mistake, or negligence of the Contractor or its employees, agents, or representatives, or subcontractors or their employees, agents, or representatives, in connection with, incident to, or arising directly or indirectly out of this Contract, or arising out of workers' compensation claims, unemployment, or claims under similar such laws or obligations.

XIII. SUBMISSION OF REPORTS

If the Contractor is a Local Health Department, it shall submit monthly expenditure reports to the Department in a format approved by the Department. All other Contractors shall submit monthly summarized billing statements to the Department. Expenditure reports and billing statements must be submitted to the Department within 20 days following the last day of the month in which the expenditures were incurred or the services provided.

XIV. PAYMENT

1. If a recipient, a recipient's insurance, or any third-party is responsible to pay for services rendered pursuant to this Contract, the Contractor shall bill and collect for the goods or services provided to the recipient. The Department shall reimburse total actual expenditures, less amounts collected as required by this section.
2. Under no circumstances shall the Department authorize payment to the Contractor that exceeds the amount specified in this Contract without an amendment to the Contract.
3. The Department agrees to make every effort to pay for completed services, and payments are conditioned upon receipt of applicable, accurate, and completed reports prepared by the Contractor and

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delivered to the Department. The Department may delay or deny payment for final expenditure reports received more than 20 days after the Contractor has satisfied all Contract requirements.

XV. RECORD KEEPING, AUDITS, & INSPECTIONS

1. The Contractor shall use an accrual or a modified accrual basis for reporting annual fiscal data, as required by Generally Accepted Accounting Principles (GAAP). Required monthly or quarterly reports may be reported using a cash basis.
2. The Contractor and any subcontractors shall maintain financial and operation records relating to contract services, requirements, collections, and expenditures in sufficient detail to document all contract fund transactions. The Contractor and any subcontractors shall maintain and make all records necessary and reasonable for a full and complete audit available for audit or inspection during normal business hours or by appointment, until all audits initiated by federal and state auditors are completed, or for a period of four years from the date of termination of this Contract, whichever is longer, or for any period required elsewhere in this Contract.
3. The Contractor shall retain all records which relate to disputes, litigations, claim settlements arising from contract performance, or cost/expense exceptions initiated by the Director, until all disputes, litigations, claims, or exceptions are resolved.
4. The Contractor shall comply with federal and state regulations concerning cost principles, audit requirements, and grant administration requirements, cited in Table 1. Unless specifically exempted in this Contract's special provisions, the Contractor must comply with applicable federal cost principles and grant administration requirements if state funds are received. The Contractor shall also provide the Department with a copy of all reports required by the State Legal Compliance Audit Guide (SLCAG) as defined in Chapter 2, Title 51, UCA. All federal and state principles and requirements cited in Table 1 are available for inspection at the Utah Department of Health during normal business hours. A Contractor who receives \$50,000.00 or more in a year from all federal or from all state sources may be subject to federal and state audit requirements. A Contractor who receives \$300,000.00 or more per year from federal sources may be subject to the federal single audit requirement. Counties, cities, towns, school districts, and all non-profit corporations that receive 50% or more of their funds from federal, state or local governmental entities are subject to the State of Utah Legal Compliance Audit Guide. Copies of required audit reports shall be sent to the Utah Department of Health, Bureau of Financial Audit, Box 144002, Salt Lake City, Utah 84114-4002.

Federal and State Principles and Requirements

XVI. CONTRACT ADMINISTRATION REQUIREMENTS

The Contractor agrees to administer this Contract in compliance with either OMB Common Rule or OMB Circular A-110 depending upon the legal status of the Contractor as shown in Table 1. Financial management, procurement, and affirmative action requirements specify that

1. the Contractor must have fiscal control and accounting procedures sufficient to:
 - a. permit preparation of reports required by this Contract, and
 - b. permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.
2. the Contractor's financial management systems must meet the following standards:
 - a. *financial reporting*. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of this Contract.

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- b. *accounting records.* The Contractor must maintain records which adequately identify the source and application of funds provided for federally financially-assisted activities. These records must contain information pertaining to the Contract's awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
 - c. *internal control.* Effective control and accountability must be maintained for all Contract cash, real and personal property, and other assets. The Contractor must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
 - d. *budget control.* Actual expenditures or outlays must be compared with budgeted amounts for the Contract. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in this Contract. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
3. Federal OMB cost principles, federal agency program regulations, and the terms of grant and subgrant, and contract agreements will be followed in determining the reasonableness, allowability, and allocability of costs.
- a. *source documentation.* Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and subcontract award documents, etc.
 - b. *cash management.* Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the Department and the Contractor must be followed whenever advance payment procedures are used.
4. the Contractor shall use its own procurement procedures which reflect applicable State and local laws, rules, and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this Contract.
- a. The Contractor will maintain a contract administration system which ensures that subcontractors perform in accordance with the terms, conditions, and specifications of its contracts or purchase orders.
 - b. The Contractor will maintain a written code of standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent of the Department or the Contractor shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
 - i. the employee, officer or agent,
 - ii. any member of his immediate family,
 - iii. his or her partner; or
 - iv. an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The Department's or the Contractor's officer, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. The Department and the Contractor may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the Department's or the Contractor's officers, employees, or agents, or by subcontractors or their agents.
 - c. The Contractor's procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or

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breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

d. To foster greater economy and efficiency, the Contractor, if a governmental entity, is encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

e. If allowed by law, the Contractor is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

f. The Contractor may contract only with responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

g. The Contractor shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to the following:

- i. the rationale for the method of procurement,
- ii. selection of contract type,
- iii. contractor selection or rejection, and
- iv. the basis for the contract price.

h. The Contractor may use time and material type contracts only:

- i. after a determination that no other contract is suitable, and
- ii. if the Contract includes a ceiling price that the Contractor exceeds at its own risk.

i. The Contractor alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the Contractor of any contractual responsibilities under its contracts.

j. The Contractor shall have protest procedures to handle and resolve disputes relating to its procurements and shall in all instances disclose information regarding the protest to the federal funding agency. A protestor must exhaust all administrative remedies with the Department and the Contractor before pursuing a protest with the federal funding agency.

5. The Contractor shall take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- a. placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
- e. using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
- f. requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in Article XVI, section 5, subsections a - e.

XVIII DEFAULT, TERMINATION, & PAYMENT ADJUSTMENT

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1. Each party may terminate this Contract with cause. If the cause for termination is due to the default of a party, the non-defaulting party shall send a notice, which meets the notice requirements of this Contract, citing the default and giving notice to the defaulting party of its intent to terminate. The defaulting party may cure the default within fifteen days of the notice. If the default is not cured within the fifteen days, the party giving notice may terminate this Contract 45 days from the date of the initial notice of default or at a later date specified in the notice.
2. The Department may terminate this Contract without cause, in advance of the specified termination date, upon 30 days written notice.
3. The Department agrees to use its best efforts to obtain funding for multi-year contracts. If continued funding for this Contract is not appropriated or budgeted at any time throughout the multi-year contract period, the Department may terminate this Contract upon 30 days notice.
4. If funding to the Department is reduced due to an order by the Legislature or the Governor, or is required by federal or state law, the Department may terminate this Contract or proportionately reduce the services and goods due and the amount due from the Department upon 30 days written notice. If the specific funding source for the subject matter of this Contract is reduced, the Department may terminate this Contract or proportionately reduce the services and goods due and the amount due from the Department upon 30 written notice being given to the Contractor.
5. If the Department terminates this Contract, the Department may procure replacement goods or services upon terms and conditions necessary to replace the Contractor's obligations. If the termination is due to the Contractor's failure to perform, and the Department procures replacement goods or services, the Contractor agrees to pay the excess costs associated with obtaining the replacement goods or services.
6. If the Contractor terminates this Contract without cause, the Department may treat the Contractor's action as a default under this Contract.
7. The Department may terminate this Contract if the Contractor becomes debarred, insolvent, files bankruptcy or reorganization proceedings, sells 30% or more of the company's assets or corporate stock, or gives notice of its inability to perform its obligations under this Contract.
8. If the Contractor defaults in any manner in the performance of any obligation under this Contract, or if audit exceptions are identified, the Department may, at its option, either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception. Default and audit exceptions for which payment may be adjusted or withheld include disallowed expenditures of federal or state funds as a result of the Contractor's failure to comply with federal regulations or state rules. In addition, the Department may withhold amounts due the Contractor under this Contract, any other current contract between the Department and the Contractor, or any future payments due the Contractor to recover the funds. The Department shall notify the Contractor of the Department's action in adjusting the amount of payment or withholding payment. This Contract is executory until such repayment is made.
9. The rights and remedies of the Department enumerated in this article are in addition to any other rights or remedies provided in this Contract or available in law or equity.

XVIII FEDERAL REQUIREMENTS

The Contractor shall comply with all applicable federal requirements. To the extent that the Department is able, the Department shall give further clarification of federal requirements upon the Contractor's request. If the Contractor is receiving federal funds under this Contract, certain federal requirements apply. The Contractor agrees to comply with the federal requirements to the extent that they are applicable to the subject matter of this Contract and are required by the amount of federal funds involved in this Contract.

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1 Civil Rights Requirements:

a The Civil Rights Act of 1964, Title VI, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The Health and Human Services regulation implementing this requirement is 45 CFR Part 80.

b The Civil Rights Act of 1964, Title VII, (P.L. 88-352 & 42 U.S.C. ' 2000e) prohibits employers from discriminating against employees on the basis of race, color, religion, national origin, and sex. Title VII applies to employers of fifteen or more employees, and prohibits all discriminatory employment practices.

c The Rehabilitation Act of 1973, as amended, section 504, provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The Health and Human Services regulation 45 CFR Part 84 implements this requirement.

d The Age Discrimination Act of 1975, as amended (42 U.S.C. " 6101-6107), prohibits unreasonable discrimination on the basis of age in any program or activity receiving federal financial assistance. The Health and Human Services regulation implementing the provisions of the Age Discrimination Act is 45 CFR Part 91.

e The Education Amendments of 1972, Title IX, (20 U.S.C. " 1681-1683 and 1685-1686), section 901, provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. Health and Human Services regulation 45 CFR Part 86 implements this requirement.

f Executive Order No. 11246, as amended by Executive Order 11375 relates to "Equal Employment Opportunity," (all construction contracts and subcontracts in excess of \$10,000.00)

g Americans with Disabilities Act of 1990, (P.L.101-336), section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. ' 794), prohibits discrimination on the basis of disability.

h The Public Health Service Act, as amended, Title VII, section 704 and TITLE VIII, section 855, forbids the extension of federal support for health manpower and nurse training programs authorized under those titles to any entity that discriminates on the basis of sex in the admission of individuals to its training programs. Health and Human Services regulation implementing this requirement is 45 CFR Part 83.

i The Public Health Service Act, as amended, section 526, provides that drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment because of their drug abuse or drug dependence, by any private or public general hospital that receives support in any form from any federally funded program. This prohibition is extended to all outpatient facilities receiving or benefitting from federal financial assistance by 45 CFR Part 84.

j The Public Health Service Act, as amended, section 522, provides that alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital that receives support in any form from any federally funded program. This prohibition is extended to all outpatient facilities receiving or benefitting from federal financial assistance by 45 CFR Part 84.

2 **Confidentiality:** The Public Health Service Act, as amended, sections 301(d) and 543, require that certain records be kept confidential except under certain specified circumstances and for specified

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purposes. Confidential records include records of the identity, diagnosis, prognosis, or treatment of any patient that are maintained in connection with the performance of any activity or program relating to drug abuse prevention, i.e., drug abuse education, training, treatment, or research, or alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research that is directly or indirectly assisted by the federal government. Public Health Service regulations 42 CFR Parts 2 and 2a implement these requirements.

3 Lobbying Restrictions: Lobbying restrictions as required by 31 U.S.C. ' 1352, requires the Contractor to abide by this section and to place it's language in all of it's contracts:

- a No federal funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Federal Standard Form LLL, "Disclosure Form to report Lobbying," in accordance with its instructions.
- c The Contractor shall require that the language of this article be included in the award documents for all subcontracts and that subcontractors shall certify and disclose accordingly.

4 Debarment, suspension or other ineligibility: The Contractor must notify the Department in accordance with the notification requirements specified in Article III, section 11 of this Contract if the Contractor has been debarred within the contract period. Debarment regulations are stated in Health and Human Services regulation 45 CFR Part 76.

5 Environmental Impact: The National Environmental Policy Act of 1969 (NEPA) (Public Law 91-190) establishes national policy goals and procedures to protect and enhance the environment. NEPA applies to all federal agencies and requires them to consider the probable environmental consequences of any major federal activity, including activities of other organizations operating with the concurrence or support of a federal agency. This includes grant-supported activities under this Contract if federal funds are involved. Additional environmental requirements include:

- a the institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order 11514;
- b the notification of violating facilities pursuant to Executive Order 11738 (all contracts, subcontracts, and subgrants in excess of \$100,000.00);
- c the protection of wetlands pursuant to Executive Order 11990;
- d the evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
- e the assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. " 1451 et seq.);
- f the conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. ' 7401 et seq.);
- g the protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523),
- h the protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205) and;

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i the protection of the national wild and scenic rivers system under the Wild and Scenic Rivers Act of 1968 (16 U.S.C. " 1271 *et seq.*).

6 Human Subjects: The Public Health Service Act, section 474(a), implemented by 45 CFR Part 46, requires basic protection for human subjects involved in Public Health Service grant supported research activities. Human subject is defined in the regulation as "a living individual about whom an investigator (whether professional or student) conducting research obtains data through intervention or interaction with the individual or identifiable private information." The regulation extends to the use of human organs, tissues, and body fluids from individually identifiable human subjects as well as to graphic, written, or recorded information derived from individually identifiable human subjects. The regulation also specifies additional protection for certain classes of human research involving fetuses, pregnant women, human in vitro fertilization, and prisoners. However, the regulation exempts certain categories of research involving human subjects which normally involve little or no risk. The exemptions are listed in 45 CFR Part 46.101(b). The protection of human subjects involved in research, development, and related activities is found in P.L. 93-348.

7 Sterilization: Health and Human Services and Public Health Service have established certain limitations on the performance of nonemergency sterilizations by Public Health Service grant-supported programs or projects that are otherwise authorized to perform such sterilizations. Public Health Service has issued regulations that establish safeguards to ensure that such sterilizations are performed on the basis of informed consent and that the solicitation of consent is not based on the withholding of benefits. These regulations, published at 42 CFR Part 50, Subpart B, apply to the performance of nonemergency sterilizations on persons legally capable of consenting to the sterilization. Federal financial participation is not available for any sterilization procedure performed on an individual who is under the age of 21, legally incapable of consenting to the sterilization, declared mentally incompetent, or is institutionalized.

8 Abortions and Related Medical Services: Federal financial participation is generally not available for the performance of an abortion in a grant-supported health services project. For further information on this subject, consult the regulation at 42 CFR Part 50, Subpart C.

9 Recombinant DNA and Institutional Biosafety Committees: Each institution where research involving recombinant DNA technology is being or will be conducted must establish a standing Biosafety Committee. Requirements for the composition of such a committee are given in Section IV of *Guidelines for Research Involving Recombinant DNA Molecules*, (49 FR 46266 or latest revision), which also discusses the roles and responsibilities of principal investigators and contractor institutions. *Guidelines for Research Involving Recombinant DNA Molecules and Administrative Practices Supplement* should be consulted for complete requirements for the conduct of projects involving recombinant DNA technology.

10 Animal Welfare: The *Public Health Service Policy on Humane Care and Use of Laboratory Animals By Awardee Institutions* requires that applicant organizations establish and maintain appropriate policies and procedures to ensure the humane care and use of live vertebrate animals involved in research activities supported by Public Health Service. This policy implements and supplements the U.S. *Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training* and requires that institutions use the *Guide for the Care and Use of Laboratory Animals* as a basis for developing and implementing an institutional animal care and use program. This policy does not affect applicable State or local laws or regulations which impose more stringent standards for the care and use of laboratory animals. All institutions are required to comply, as applicable, with the Animal Welfare Act as amended (7 U.S.C. 2131 *et seq.*) and other federal statutes and regulations relating to animals. These documents are available from the Office for Protection from Research Risks (OPRR), National Institutes of Health, Bethesda, MD 20892, (301) 496-7005.

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11 Contract Provisions: The Contractor must include the following provisions in its contracts, as limited by the statements enclosed within the parentheses following each provision:

- a administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provides for such sanctions and penalties as may be appropriate. (Contracts other than small purchases. Small purchase involve relatively simple and informal procurement methods that do not cost more than \$100,000 in aggregate.)
- b termination for cause and for convenience by the contractor or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- c compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (All construction contracts awarded in excess of \$10,000 by the Contractor and its contractors or subgrantees)
- d compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)
- e compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2,000 awarded when required by Federal grant program legislation)
- f compliance with the Contract Work Hours and Safety Standards Act, sections 103 and 107, (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers)
- g notice of the federal awarding agency requirements and regulations pertaining to reporting.
- h notice of federal awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- i federal awarding agency requirements and regulations pertaining to copyrights and rights in data.
- j access by the Department, the Contractor, the Federal funding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- k compliance with all applicable standards, orders, or requirements of the Clear Air Act, section 306, (42 U.S.C. 1857(h)), the Clean Water Act, section 508, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000)
- l mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

12 (Governmental entities only) Merit System Standards: The Intergovernmental Personnel Act of 1970 (42 U.S.C. ' 4728-4763), requires adherence to prescribed standards for merit systems funded with federal funds.

13 Misconduct in Science: The United States Public Health Service requires certain levels of ethical standards for all PHS grant-supported projects and requires recipient institutions to inquire into, investigate and resolve all instances of alleged or apparent misconduct in science. Issues involving

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potential criminal violations must be promptly reported to the HHS Office of Inspector General. (See regulations in 42 CFR Part 50, Subpart A)

END OF GENERAL PROVISIONS

APPENDICES

Appendix A.1 – A.5

Appendix B

Appendix C

Please note: If you are obtaining this RFP from our website, you will need to call Sheila Bird at 801-538-3232 and have her send you a hard copy of the appendices.